

Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

MUR 4863

Complaint of Federal Election Law

Complainant: Daniel L. Grant
38 Two Bridges Rd.
Towaco N.J. 07082

Respondents: Sean Hannity
Radio Talk Show Host
WABC Talk Radio 770
Residence Unknown

WABC AM 770
2 Penn Plaza
17th Floor
New York, N.Y. 10023

Capital Cities/ABC
77 W. 66th St.
New York, N.Y. 10023

Walt Disney Company
500 South Buena Vista St.
Burbank, Ca. 91521

I Daniel L. Grant 38 Two Bridges Rd, Towaco N.J. 07082 request and make complaint to the Federal Election Commission that the above respondents did violate the Federal Election Law in the following manner:

Complaint 1. Sean Hannity, WABC 770, Capital Cities/ABC Inc., and the Walt Disney Co. did from a period of October 15th 1998 through October 31, 1998 provide to the Campaign of Senator Alfonse D'Amato numerous free election advertisements without listing these as campaign contributions of an in kind nature as required by Federal Election Law.

Complaint 2. Sean Hannity through the air waves and licenses of Capital Cities/ABC, WABC 770, and the Walt Disney Co. Did exhort and espouse a political position to further the

election efforts of Senator Alfonse D'Amato as a prohibited Contribution under the Prohibited Contributions Clause- Corporations and Unions

Complaint 3. Sean Hannity, WABC 770, Capital Cities/ABC and Walt Disney Co. Did from a period of October 15th 1998 through November 2 contribute air time during the Sean Hannity Show for the express purpose of re-electing Senator Alfonse D'Amato and advocating the defeat of Charles Schumer in the November 1998 General Election for U.S. Senator from New York in excess of the \$25,000.00 annual Limit under the Federal Election Law.

Complaint 4. Sean Hannity, WABC 770, Capital Cities/ABC and the Walt Disney Co. Did violate the Independent expenditures Clause of the Federal Election Law by failing to notice on each and every occasion that Sean Hannity urged exhorted and advised the listeners of the Sean Hannity Program to either vote for Alfonse D'Amato or vote against Charles Schumer that he was both on his behalf and on the behalf of WABC 770 Capital Cities/ABC and the Walt Disney Company acting independently and that the air time was paid for by others than Alfonse D'Amato campaign organizations and not authorized by the candidate.

Complaint 5. Sean Hannity, WABC 770, Capital Cities/ABC and the Walt Disney Co. Violated the Federal Election Law by failing to file a report with the Federal Election Commission as required having exceeded \$250.00 expenditure as an independent committee.

Complaint 6. The Respondents as a group became a Political Committee as defined by Federal Election Law in that they spend more than \$1000.00 between October 15, 1998 and November 3, 1998 to Influence a Federal Election and failed to register, keep records and file reports on the committees as required be the Federal Election Law.

Complaint 7. Using the Sean Hannity Show, Sean Hannity, WABC 770, Capital City/ABC and the Walt Disney Co. Did violate the Federal Election Law by running portions of a Paid Political advertisement advocating the election of Senator D'Amato under the guise of informing the public no less than 5 times on or about October 27 -29th 1998 which represented an in kind contribution to the D'Amato campaign and failed to report this as in in-kind contribution as required by the Federal Election Law.

Complaint 8 From a period of October 15th 1998 through November 3rd, 1998 Sean Hannity, WABC 770, Capital Cities/ABC and the Walt Disney Co. Did advocate and exhort voters to go do the polls for the express purpose of electing Candidate D'Amato and defeating Candidate Schumer utilizing air time whose value was not properly filed as an inkind contribution to the D'Amato Campaign.

The Complainant did personally hear the above complaints and a tape exists in the hands of the respondents for the purposes of review.

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\$25,000 Annual Limit

You have an annual limit of \$25,000 on your total contributions to Federal candidates and Federal political committees. Your contribution to a candidate counts against your annual limit for the year in which the candidate seeks election, regardless of when you make the contribution. For example, if you contribute to a candidate the year before the election, the contribution counts against the annual limit for the election year. Similarly, if you make a contribution to a candidate the year after the election to help retire campaign debts, the contribution counts against your annual limit for the previous year. (See also Designated Contributions)

On the other hand, your contribution to a Federal party committee or PAC counts against your annual limit for the year in which the contribution is made, as long as the contribution is not earmarked for a specific candidate.

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Prohibited Contributions - Corporations and Unions

The law also prohibits contributions from corporations and labor unions. This prohibition applies to any incorporated organization, profit or nonprofit. For example, the owner of an incorporated "mom and pop" grocery store is not permitted to use a business account to make contributions. Instead, the owner would have to use a personal account. A corporate employee may make contributions through a nonrepayable corporate drawing account, which allows the individual to draw personal funds against salary, profits or other compensation.

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Prohibited Contributions - Excessive Contributions

Contributions that exceed the law's limits are prohibited.

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Prohibited Contributions - Contributions in the Name of Another

Contributions made in the name of another are also prohibited. An individual who has already contributed up to the limit for a candidate's election may not give money to another person to make a contribution to the same candidate. Similarly, a corporation is prohibited from using bonuses or other methods of reimbursing employees for their contributions. Remember, parents may not make a contribution in the name of a child.

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Independent Expenditures

Independent expenditures provide yet another way to support Federal candidates. An independent expenditure is money spent for a communication that expressly advocates the election or defeat of a candidate. It is "independent" only if the individual making the expenditure does not coordinate or consult in any way with the candidate campaign benefiting from the communication. Independent expenditures are not considered contributions and are unlimited. You may spend any amount on each communication as long as the expenditure is truly independent.

You may, for example, pay for an advertisement in a newspaper or on the radio urging the public to vote for the candidate you want elected. Or you may produce and distribute posters or yard signs telling people not to vote for a candidate you oppose.

When making an independent expenditure, you must include a notice stating that you have paid for the communication and that it is not authorized by any candidate's committee. ("Paid for by John Doe and not authorized by any candidate's committee.") Additionally, once you spend more than \$250 on independent expenditures during a year, you must file a report with the Federal Election Commission, either FEC Form 5 or a signed statement containing the same information.

Because this brief explanation does not cover all you need to know before making an independent expenditure, you should first call, e-mail or write the Commission for more information.

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Acting as a Group

If you and other individuals act together as a group to conduct Federal election activity, the group may become a "political committee." Under the Federal campaign finance law, a group that raises or spends over \$1,000 per year to influence Federal elections must register, keep records on financial transactions and file reports on the committee's activities.

If you are interested in forming a group to participate in Federal elections and anticipate raising or spending more than \$1,000 during a calendar year, you should e-mail, write or phone the Commission and request materials to register the group as a political committee.

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Donated Items as Services

The donation of office machines, furniture, supplies - anything of value - is an in-kind contribution. The value of the donated item (the usual and normal charge) counts against the contribution limits. A donation of paid services is also considered an in-kind contribution. For example, if you pay a consultant's fee or a printing bill for services provided to a campaign, you have made an in-kind contribution in the amount of the payment.

If you sell an item or service and ask the committee to pay less than the usual and normal charge, you have also made an in-kind contribution to the committee in the amount of the discount.

Under limited exceptions in the law, you may provide certain goods and services without making a contribution to the committee. These exceptions are discussed under Volunteering, Travel Expenses and Business Services.

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Claimant does not dispute the First Amendment Rights of the respondents to express what ever they wish in order to achieve what ever end they wish. However airtime is a commodity and has a value. When it is used for the express purpose of advocating a political outcome during an election period I believe that it would follow that a failure to list the value under some aspect of the Federal Election Law should be a violation in fact of that election law. Even a cursory review of the programming of the Sean Hannity Show which airs from 3:00pm to 6:00pm eastern time will reveal statements which clearly advocate the election of or the defeat of Candidates for public office. If I as an advocate for a position during an election would be required to file as little as \$250.00 spent on behalf of an election question than certainly the use of hundreds of thousands of dollars of airtime must also be considered a contribution.

Signed

Daniel I. Grant
Daniel I. Grant

Signed and sworn before me. 11/16/98

Notary

Linda M. White
Linda M. White

LINDA M WHITE
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES MAR. 12, 1999